IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 557 OF 2006

KLM Engineering Co. Pvt. Ltd. & ... Petitioner
Ors.

V/s.

The New India Assurance Co. Ltd.... Respondent
& Ors.

Mr. Shyam Diwan, Sr. Counsel with Mr. J.P. Sen i/b. Federal & Rashmikant for the petitioner.
Mr. C. Bharucha with Ms. Mandakini C. Shah for the respondents.

CORAM : F.I. REBELLO, J.
ANOOP V. MOHTA, J.
DATED : 21st March, 2006

P.C.

. In our opinion after hearing the parties, and considering the record, clarifications can be issued and the matter can be disposed of.

2. Respondents have initiated proceeding against petitioner under the provisions of the Public Premises and Eviction Act. It is the case of the petitioners that they have already filed a reply on 21st February, 2003 and 25th April, 2003. The learned Estate Officer, thereafter, has taken on record affidavit of evidence filed on behalf of the respondents. The matter has been adjourned from time to time for cross-examination of the witness of the respondents.

3. During the pendency of these proceedings, respondent No. 1 moved an application on 20th September, 2005, wherein they prayed that the petitioner be called upon to Show Cause to the Statutory Notice. It is the case of the petitioner herein that they have already filed their reply. On 30th January, 2006, application by the respondent No. 1 herein and another application by the petitioner has been disposed of. In the present petition, we are concerned with the order passed by the Estate Officer on the application moved by the respondent No.1. By that order the Estate Officer directed the petitioner herein to file the documents and witness affidavit in view of evidence-in-chief on or before 21.01.2006 and complete the inspection of document by 20.02.2006. The said order is the subject matter of this challenge.

4. The question of inspection of documents would not arise at this stage. That exercise has to be completed before parties file their evidence on affidavit. In the instant case, therefore, the question of the petitioners applying for inspection will not arise. In so far as the filing of affidavit of witness of the petitioner is concerned, in the

absence of rules requiring both the parties to file affidavit of evidence at the same time, logically Respondent No. 1, had to file these affidavits first which has already been filed and the witness was to be cross examined. After the evidence of Respondent No. 1 is closed, petitioner to file the evidence of the witnesses on affidavit. Order dated 30th January,2006 will have to be read in the context of what has been observed by us in the present discussion.

5. For the above discussion, petition stands disposed of with no order as to costs.

[F.I. REBELLO, J.]

[ANOOP V. MOHTA, J.]